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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,553	06/02/2000	Shuji Ono	3562-0102P	5106
7590 03/21/2005			EXAMINER	
Birch Stewart Kolasch and Birch LLP			TRAN, NHAN T	
P O Box 747			ART UNIT	
Falls Church, VA 22040-0747			PAPER NUMBER	
			2615	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,553

Applicant(s)

ONO, SHUJI

Examiner

Nhan T. Tran

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/13/2004 & 10/14/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6-15, 17-19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 16 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/5/2000</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/13/2004 & 10/14/2004 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-5, 16 & 20 have been considered but are moot in view of the new ground of rejection.

In addition, the Applicant states that the Applicant has not received the PTO 1449, which was filed on 9/5/2000, with the Examiner's initials as indicated in the previous Office Actions. In response, the Examiner re-submits the initialed and signed PTO 1449 based on its copy that was received on March 7, 2005 from the Applicant upon the Examiner's request.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

Art Unit: 2615

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 16 & 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Iijima et al (US 6,823,080).

Regarding claim 1, Iijima discloses an image processing apparatus for processing an image obtained by photographing a subject (Figs. 2-3B & 25), comprising:

an image data unit (1) for capturing a first image (left image) and a second image (right image) of the subject (2, 3), said second image being captured in a parallax manner (see col. 11, line 64 – col. 12, line 41 and col. 14, lines 18-30);

an extractor (image processor 220) for extracting image information (i.e., luminance level or depth information) relating to conditions of the image from said first image and depth information indicating a distance between a point to another point on the subject from said second image (see Fig. 3; col. 10, lines 61-65; col. 12, lines 56-65; col. 13, line 64 – col. 14, line 3 and col. 14, lines 49-63 and note that since image information such as luminance and depth information in the object are extracted from both right and left images, the claimed limitations are generally encompassed);

a condition-determining unit for determining a process condition of said first image based on said depth information (col. 10, lines 7-15).

Regarding claim 2, Iijima discloses an image processing unit processing the image based on the condition for processing the image (col. 10, lines 7-15).

Art Unit: 2615

Regarding claim 3, Iijima also discloses that the extractor extracts the depth information based on the parallax image obtained by photographing the subject from different view points (i.e., view points from position A0 to position An). See col. 4, lines 33-40 and col. 10, lines 37-40.

Regarding claim 4, it is clear in Fig. 25 that an aimed object (i.e., a cup) is extracted based on the depth information, and the condition determining unit determines the condition for processing the image based on information including the data of the aimed object (col. 10, lines 7-15).

Regarding claim 5, see the analysis of claims 1 & 4, wherein image information is luminance level (col. 14, lines 55-62).

Regarding claim 16, see the analysis of claim 1.

Regarding claim 20, see the analysis of claim 1. Furthermore, Iijima discloses a recording medium storing therein a program executed by a computer (e.g., a microcomputer of system controller shown in Fig. 4 and/or an external computer shown in Fig. 2) to perform a method of processing an image obtained by photographing a subject (see col. 12, lines 42-49).

Art Unit: 2615

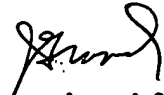
Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Tran whose telephone number is (571) 272-7371. The examiner can normally be reached on Monday - Thursday, 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NT.


James J. Groody
Supervisory Patent Examiner
Art Unit 262 2615